

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF DAVID H. HAWK) APPEAL NO. 07-A-2616
from the decision of the Board of Equalization of Valley) FINAL DECISION AND
County for the tax year 2007.) ORDER

PROPERTY APPEAL

NOTICE OF APPEAL was filed September 11, 2007, by Appellant, from a decision of the Valley County Board of Equalization (BOE) modifying the protest of the valuation for taxing purposes of property described as Parcel No. RP0019000J0540A. As a matter of convenience, Appellant requested this appeal be heard on the written record of evidence and argument presented, without appearance at a hearing. This Board subsequently requested all information and evidence to be considered be submitted by both parties. The Board now issues its decision based upon the documentary record.

The issue on appeal is the market value of an undeveloped lot.

The decision of the Valley Board of Equalization is affirmed.

FINDINGS OF FACT

The total assessed land value is \$25,110. Appellant requests the land value be reduced between \$5,030 and \$10,000.

The subject property is 0.08 acres, located in a large group of undeveloped lots about 1/3 to 1/2 miles west of the Payette Lake shore.

Appellant contested the assessed market value of subject was unfair, increasing approximately 400% from \$5,030 in tax year 2006 to \$25,110 in 2007

Appellant stated subject is a small lot, only 50 x 70 feet, with no legal access road to the property and no sewer or water hookups.

Taxpayer filed an appeal on June 19, 2007, and received a letter from the Assessor's

Office which stated the BOE had acted on the Assessor's recommendation to reduce the assessed value of subject from \$33,780 to \$31,380. Appellant received a letter, dated August 13, 2007, which stated a lowered valuation of \$25,110 for subject.

Taxpayer asserted subject does not include a Payette Lake Club, Inc. (PLC) membership. Appellant was informed by several realtors in the area that if Appellant had a PLC membership it would significantly add to the value of subject.

A notarized letter from a realtor was submitted by Appellant which stated the value of a PLC lot is determined by whether or not the lot included a membership. The realtor further stated a seller who had a PLC membership could expect to receive a value in the neighborhood of \$35,000 for property. The Realtor asserted the marketability of properties without PLC memberships were low and the only recent sales in the \$30,000 dollar range included memberships. The Realtor believed the value of subject should be reduced based on the lack of a membership as well as the fact that subject is a small lot, 50 x 70 feet, it is landlocked amidst a number of undeveloped lots lacking in service, is more than 3/8 mile from Warren Wagon Road, and is 1/2 mile from the lake. Given the above factors, Realtor determined subject should be valued between \$4,500 to \$5,500.

The Assessor presented two sale properties to support the assessed value of subject property. The properties ranged in square feet from 4,000 to 4,500. One of the properties was poor grade and sold for \$40,000 and the other was fair grade and sold for \$55,000. Both properties had a -20% adjustment for location. The property which sold for \$55,000 in 2006 had previously sold in 2004 for \$10,000, indicating a rise in the market. The Assessor did not know if these properties had PLC memberships. In comparison, subject is a poor grade property consisting of 3,500 square feet with two adjustments; one -20% adjustment for location and

another -20% adjustment for access. According to the County, the least expensive sale that was submitted to their office was for \$30,000 at Crescent Rim. There were no sales for \$5,000 turned into the office from either 2005 or 2006.

The County asserted they have no knowledge of the value of a PLC membership, and without additional information on the subject, the Assessor's Office would continue to value all properties as if they had PLC memberships.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following conclusions.

Idaho Code provides that "All property within the jurisdiction of this state, not expressly exempted, is subject to appraisal, assessment and property taxation." I.C. § 63-203 (2007). Idaho Code further directs that "rules promulgated by the State Tax Commission shall require each assessor to find market value for assessment purposes of all property." I.C. § 63-208(1).

For taxation purposes, Idaho requires that property be valued at "market value":

"Market value" means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Respondent offered two (2) 2006 sales to establish subject's assessed value.

Appellant maintained the assessment was not accurate and the value should not be based on two sales. Appellant further asserted that subject's lack of a PLC Membership should significantly reduce the value.

A property valuation for taxation purposes, as determined by an assessor, is presumed correct and the taxpayer has the burden of proof to show, by a preponderance of the evidence, entitlement to relief. Merris v. Ada County, 100 Idaho 59, 64, 593 P.2d 394, 399 (1979).

Although it is unknown whether the sales used by Respondent had PLC memberships they are the only sales for the Board to consider in this appeal.

Appellant challenged Respondent's assessment of subject, but failed submit sales of similar property that are also lacking PLC Membership. The two sales in subject's area sold for \$40,000 and \$55,000. Subject is assessed for \$25,110. The Board finds subject is assessed lower than any sales reported and reductions were applied for the access issues and subject's small size. Therefore, we will affirm the decision of the Valley County Board of Equalization.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Valley County Board of Equalization concerning the subject parcel be, and the same hereby is, affirmed.

MAILED April 30, 2008